

Considering Coastal Zone Management

- The Law • The Participants
- The Program

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration



"The Congress finds that the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the nation. . . ."

Intent on finding the "key to more effective protection and use of the land and water resources of the coastal zone," Congress passed, and the President signed into law October 28, 1972, the Coastal Zone Management Act of 1972.

In Public Law 92-583, Congress designed a method to stimulate state leadership in planning and management of the coastal zone, and to bring into harmony the social, economic and ecological aspects of land and water use decisions of more than local significance. Through a series of incentives centered on a federal grants program and buttressed by technical assistance, the Act encourages a new partnership among various levels of government, through which each may exercise its unique management capabilities.

It facilitates the development of policies, standards and processes for coastal resources management by 34 U.S. coastal states and territories. Federal guidelines set a framework for state coastal program development. They urge local government participation and public input from the broadest range of interests. The ultimate intent of Congress is to see the resulting management techniques at work in the nation's coastal waters and adjacent shorelands (excluding federal lands).

Simply then, what Congress provided in the Coastal Zone Management Act of 1972 is the opportunity for U. S. coastal states and territories and the federal government: (1) to join in a partnership to coordinate governmental activity; and (2) to balance competing uses which have a direct and significant impact on the lands adjoining the nation's oceans and Great Lakes.

The law is administered by the Secretary of Commerce, who determines whether federal approval, when sought by a state, should be given to that state's management plan. Responsibility for implementing the Act is delegated to the Commerce Department's National Oceanic and Atmospheric Administration. Within NOAA, this is carried out by the Office of Coastal Zone Management.

Coastal Program Grants: A Capsule View

Three types of federal grants are offered to encourage coastal states and territories to develop and then implement comprehensive management programs for the natural, commercial, recreational, industrial and esthetic resources which exist in the coastal areas.

Initial grants are for program planning; these may be followed by grants to implement a federally-approved management program. To complement both planning and implementation, grants are available to help states set up estuarine sanctuaries, as natural field laboratories to be used for education and research.

Congress also saw the need to preserve or restore marine areas, and authorized under separate law a marine sanctuaries program. This is administered by the Office of Coastal Zone Management and coordinated closely with the estuarine sanctuaries and state coastal program development.

Those are the granting tools available to the state under the federal coastal zone management program. Here is a closer look at the major terms of the law, and the process by which a state coastal zone management program would develop under Public Law 92-583.

A Focus on Coastal Planning: Section 305

The process contemplated by the Act begins when a state or territory decides to develop a coastal zone management plan and applies for a federal grant under Section 305—a strictly voluntary action based on a decision by the Governor. The state must be able to provide funds or services to match by one-half the total of the federal grant it requests (so that the effort is funded on a two-thirds federal, one-third state basis).

The Governor must designate a state agency responsible for administering the grant and completing the work plan. The grant application describes the responsibilities of that agency and all other state agencies involved; the status of coastal zone management activities; data sources and needs; state goals, problems and priorities; means for involving the public and various levels of government in plan development; means of coordinating plan development with agencies administering excluded federal coastal lands; and the strategy to be pursued in developing the management plan and program.

States may allocate portions of the grant to other agencies within the states, local governments, multi-state organizations, or private contractors. A coastal program also may be developed in geographic segments, as long as the state provides assurance it eventually intends to bring the entire coastal zone under the management program.

Implementing the Program: Section 306

A state may apply for and receive as many as three annual Section 305 planning, or program development, grants. During this time, the state program would be developing consistent with federal guidelines which are designed to prepare the state to request and receive federal approval of its management plan—and federal grants to implement it.

Central to this goal are six items the state must address in its planning program:

(1) identification of the boundaries of the coastal zone

(2) an inventory and designation of areas of particular concern;

(3) broad guidelines on priority of uses in particular areas including specifically those uses of lowest priority;

(4) a determination of permissible land and water uses which have a direct and significant impact on coastal waters;

(5) the means by which the state proposes to control those uses; and

(6) the organizational structure which would implement the management program.

The Act specifies three optional types of controls: (1) direct state regulation; (2) local regulation consistent with state established standards; or, (3) local regulation subject to state review.

When the state program is developed, federal approval may be sought from the Secretary of Commerce. He judges whether the management process the state has developed meets the general goals of the Act. The pursuit of federal approval is again a voluntary action by the state. To secure federal approval, the Governor must have approved the program and the state must have developed the powers, arrangements and authorities necessary to implement it. This is encouraged through Section 306 program implementation grants. Substantially more funds are authorized by the Act for the annual implementation grants it allows. The state must again match the total federal grant it requests by one-half.

Estuarine Sanctuaries: Support to Management

Meanwhile, a state could be operating an estuarine sanctuary—a natural field laboratory to be used to gather data and study the natural and human processes occurring in coastal estuaries.

Authorized by Section 312 of the Act, an estuarine sanctuary grant is made on a 50%-50% matching basis. It enables a state to acquire estuarine water bodies and adjacent waters, wetlands and uplands and to operate and maintain that area for education and research in support of its coastal management efforts.

Sanctuaries will be selected throughout the nation. Areas selected are to be representative of the nation's various ecosystem types, rather than being unique ecological areas.

Criteria used in selection are based on ecological characteristics, size and selection of boundaries, cost, enhancement of non-competitive uses, proximity and access to existing research facilities, availability of suitable alternative sites already protected, and conflict with existing or potential competing uses in the area or nearby.

Marine Sanctuaries: Complement to the Program

Some marine areas merit preservation or restoration for their conservation, recreational, ecological or esthetic values. Congress recognized this in Title III of the Marine Protection, Research & Sanctuaries Act of 1972 (Public Law 92-532; enacted October 23, 1972).

That Act provides that any individual, organization, state or federal agency may nominate an area to be designated a marine sanctuary. This area would be acquired and operated with full federal funding (where funding is necessary), and could be managed in a variety of ways through agreements with various federal or state agencies.

Marine sanctuaries may be established in ocean waters as far seaward as the outer edge of the continental shelf in coastal waters where the tide ebbs and flows; and in the Great Lakes and their connecting waters.

The marine sanctuaries program, administered by the Office of Coastal Zone Management, is coordinated closely with the coastal management program. For both sanctuaries programs, a public hearing process is called for after nomination and prior to designation.

Federal Activities and State Coastal Programs

In addition to grants programs, Congress recognized other ways that the federal government could contribute to the success of a state program. One is to give technical expertise when asked. Another is to assure that federal activities within a state are not inconsistent with a state program.

Emphasizing this through what is known as the "federal consistency clause" (Section 307), the Act directs states to coordinate with federal agencies during plan development. It further directs federal agencies to adapt their activities within a state to be consistent to the "maximum extent practicable" with the state's intentions, as set out in an approved management program. This relates to federally-assisted actions, direct federal actions, and issuance of licenses and permits.

State Coastal Programs and the National Interest

This encouragement of the state to coordinate among governmental levels—local to federal—during program development should assure that the dual intent of the law is met. That intent is that each coastal state establish a process for accomplishing the general goals of the Act, and that those state plans in their aggregate will serve the interests of the nation.

One of the more important facets of the national interest emphasized in the Act deals with the siting of facilities. The Secretary of Commerce, prior to approving a state management plan, must determine that the state has built into its program a process which "provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature." (Section 306(c)(8).

To meet this, states will consult with federal agencies concerned with coastal zone siting of facilities and elicit their view of the "full dimensions of the national requirements" for consideration at an early stage in the state plan.

The state would also discuss with adjacent and nearby states how regional needs may best be met, and evaluate its own area for the needs it has and the contribution it already is making to regional and national needs. In addition, the state would determine whether a particular facility could be supported by existing coastal resources.

Some of the subject areas a state should examine in determining whether a decision on the siting of a facility is more than local in nature, or bears on the national interest, are: energy production and transmission, recreation, interstate transportation, production of food and fiber, preservation of life and property, national defense, and historic, cultural, esthetic and conservation values.

Public Involvement and Coastal Planning

These and other determinations to be made by the state as it designs its management program are to be shared by the public as well. Federal guidelines encourage broad public involvement in all phases of the plan development at the state level. Federal program management is coordinated with the National Environmental Policy Act, and public hearings will be held by the federal government before it approves a state management program.

Reference to public involvement in coastal resources management implicitly means hearing from diverse interests, and the Act requires melding those views with science and politics.

In a further attempt to solicit varying views, surface and harmonize competing interests, and guide the interpretation of the law, the Act creates a Coastal Zone Management Advisory Committee to the Secretary of Commerce. Many states have established similar advisory groups.

An Action Program from the Pages of History

The combination of these program components and this federal financial and technical assistance to states is founded in a body of ideas on preservation and development of the coastal zone which evolved over nearly a decade.

The Coastal Zone Management Act of 1972 grew out of an emerging concern for environmental quality and a growing interest in developing the resources of the oceans. These concerns were given national prominence in 1966, with the passage of legislation authorizing a study to recommend a national oceans policy. The report of the Commission on Marine Science, Engineering, and Resources (identified as the Stratton Commission for Chairman Jules Stratton) was published in 1969.

"Our Nation and the Sea—A Plan for National Action" focused especially on the need for national and state programs for comprehensive management of the nation's coastal zone. In the same period, coastal problems were highlighted in other federal initiatives and recommendations for action, including the National Estuary Study and the National Estuarine Pollution Study.

States too undertook a series of actions, including wetlands and dunes protection, and shoreline planning. The pieces of coastal management were showing up in various places, and the Stratton Commission's concept of comprehensive management for coastal resources remained alive.

Congress first considered coastal zone legislation in 1970, and again in the 1971 and 1972 sessions when the Coastal Zone Management Act of 1972 was passed. The Stratton Commission had also recommended creation of an independent ocean agency to become the focal point for all federal ocean programs.

The National Oceanic and Atmospheric Administration, created by Presidential Reorganization Plan No. 4 in October 1970, was the first attempt to consolidate ocean programs. The eventual adoption of the Coastal Zone Management Act added to NOAA's responsibilities, and resulted in a complimentary relationship among the coastal zone program and other NOAA programs and capabilities. These include the National Sea Grant Program, the Environmental Research Laboratories, Environmental Data Center, National Ocean Survey, and National Marine Fisheries Service. Linkages also were established with the many other federal programs involved in coastal zone matters as the coastal zone management program matured.

Coastal Planning: Off to a Good Start

Funds for the Act (\$12 million) were first appropriated in December 1973. Of this, \$7.2 million was allocated for development grants to states and territories; \$4 million for acquisition, maintenance and operation of estuarine sanctuaries; and \$800,000 for administration of the program.

During fiscal year 1974, 27 states and one territory were awarded planning grants (Section 305) for a total grant distribution of \$7,199,353. Two additional states and one territory submitted planning grant applications in fiscal year 1974, but indicated a preference to begin their grant periods in fiscal year 1975. In the first year of the program, therefore, 31 out of 34 eligible coastal states and territories elected to participate.

The first estuarine sanctuary grant totaling \$823,965, was awarded in fiscal year 1974 to the State of Oregon to establish a sanctuary for the South Slough of Coos Bay, an area representative of the Columbian bio-geographic area.

The federal coastal zone management program thus has begun to fashion a design for individualized state processes to deal with key coastal problems and issues. The federal responsibility is to assure that the state has fully considered the range of present and potential needs and uses of the coastal zone, and has developed procedures—based on scientific knowledge, public participation and coordinated governmental policies—for decision-making. The federal government is then to insure that federal actions support the state program.

It's a comprehensive task. But that is the idea Congress had, and that is the objective of the Coastal Zone Management Act for the area the Stratton Commission called "the Nation's most valuable geographic feature."

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